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VIA FACSIMILE and FIRST CLASS MAIL

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Mr. William Pennington
Project Manager
California Energy Commission
1516 9th Street
Sacramento, California 95814-5512

Re: Notice of Committee Conclusions Regarding Duct Tape Rulemaking Proceeding

Dear Mr. Pennington:

Tyco Adhesives ("Tyco") submits these comments in response to the California Energy Commission's ("the Commission") proposal to modify the recently promulgated AB 970 duct regulations. In this letter Tyco also requests additional time to submit supplemental comments on the CEC Conclusions of the Committee for consideration in the record prior to the April 17, 2002 hearing.

Tyco thanks CEC and its staff for the time and energy it has devoted to the resolution of the above referenced matter. Together, we have made progress towards the combined goals of promoting energy efficiency in California and conducting a fair rulemaking in which all the affected parties are involved.

Recent Testing

Tyco is working in conjunction with the Lawrence Berkeley National Laboratory ("LBNL") to begin new testing procedures based on recommended and non-recommended installation procedures. The testing began on February 1, 2002, and to date no failures have been reported. Tyco anticipates that the test results will confirm that the current Underwriter Laboratories ("UL") tests reflect recommended "in-field" performance, and that the UL 181B-FX tapes will more than adequately seal the joints and prevent air leakage.

March 21, 2002 Hearing

Tyco acknowledges the time and effort put forth by the CEC in arranging the hearing of March 21, 2002, in which the Express Terms were discussed. As stated at the hearing, Tyco fully supports the Express Terms language and encourages their adoption. Though Tyco has received notice from the Commission that the Energy Efficiency Committee recommends that the Commission not adopt the Express Terms, Tyco would like to reiterate its support for their adoption. In addition, Tyco reiterates that it is prepared to insert application instructions in each box of duct tape, and to print instructions in the tape core and/or the backing of the tape. Tyco also is willing to conduct training seminars throughout California to assure the correct application of tape products.

Tyco believes these precautions are necessary because of several comments made at the hearing. These comments included references to the incorrect application of the products, and the difficulty in enforcing building codes. Moreover, several statements about the use of OPP tape were incorrect. These inaccuracies were substantiated by John Proctor's survey, which showed that, in the twenty contractors surveyed, only ten percent of them were using OPP tape. Proctor's conclusions were as follows:

1. 55% of technicians use duct tape in situations not recommended by industry standards.
2. Over 80% of contractors do not follow industry instructions when applying duct tape, even though most of them have a general understanding of the process.
3. Approximately 80% of these contractors feel that duct tape works, even if it is simply wrapped around the duct.
4. 20% of contractors do not feel that duct tape has held up since 1998.
(primarily due to deterioration and loss of adhesion)
5. Contractors do not consider duct tape application procedures as being critical to the performance, endurance, or the efficiency of ducts.
6. The three individuals who responded in detail and demonstrated the most knowledge of duct tape usage also stated that duct tape did not hold up over time.

Thorough training and instructions can rectify conclusions 1, 2, 4, and 5. Tyco is willing to supply this training and added instruction. Conclusion 3 directly supports the language of the Express Terms, and demonstrates why Tyco supports their adoption. Conclusion 6 does not address whether those surveyed were using UL-approved duct tape, which is the only duct tape at issue here.

Longevity

The CEC has stated it would like to have sealants designed to last for thirty summers. It appears that UL-approved duct tape is being held to this standard when in fact there is no evidence to show that either mastic, film tape, or the flexible ducts themselves will survive 30 summers. In fact, flex duct manufacturers clearly state that their product's lifetime is only 15 years.

Tyco reiterates its long standing objection to the LBNL testing protocol, which tested the connection from the collar to the plenum joint. The LBNL test did not properly test for longevity.

Tyco has developed a test that in fact does predict the longevity of a sealant. It has also developed a new product that will survive 30 California summers. Tyco is willing to continue to work with the CEC and LBNL to further develop better products and better test methods.

In summary, Tyco is willing to include application instructions in each box of tape, to print instructions in the core of each roll of tape and/or on its backing, and to conduct training seminars for the proper application of tape. Tyco supports the Express Terms and encourages their adoption at the April 17, 2002 Commission hearing. Tyco will continue to develop and introduce new products into the California market. Out of an abundance of caution, however, Tyco must reserve its rights to pursue both legal and legislative actions that would permit Tyco to sell its current products in California.

Because Tyco only recently received the CEC's Conclusions following the hearing, Tyco requests additional time through April 10, 2002 to submit comments for the record. Finally, despite Tyco's differences with the CEC's Conclusions of the Committee, neither Tyco nor Tyco's agents encourages non-compliance with the law. Tyco and its subsidiaries have a long history of playing fair with the government and demanding full compliance with the law.

If you have any questions, please feel free to contact the undersigned.

Very truly yours,

William W. Funderburk, Jr.

cc: Robert Pernell
Arthur H. Rosenfeld, Ph.D.
Jerry Serra, Ph.D.